

**ADOPTION OF AN AMENDMENT TO CHAPTER 112
(ZONING) OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Monday, July 10, 2006, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA:**

Amend Chapter 112 (Zoning Ordinance), as follows:

Amend Article 2, General Regulations, Amend Part 4, Qualifying Lot and Yard Regulations, Sect. 2-412, Permitted Extensions Into Minimum Required Yards, by revising Par. 5, as follows:

5. The BZA may approve a special permit to modify the provisions of this Section, but only in accordance with the provisions of Sect. 8-922.

Amend Article 8, Special Permits, as follows:

- **Amend Part 0, General Provisions, Sect. 8-011, Submission Requirements, by revising the lead-in paragraph to read as follows:**

All applications for special permit uses, except for temporary special permits, shall be accompanied by the following items, except that additional or modified submission requirements are set forth in Part 1 for all Extraction and Excavation Uses, in Part 3 for Home Child Care Facilities, in Part 4 for certain Community Uses, in Parts 5 and 6 for certain Commercial Recreation and Outdoor Recreation Uses and in Part 9 for Approval of Modifications to Minimum Yard Requirements for Certain R-C Lots, Approval of Reduction in Minimum Yard Requirements Based on Error in Building Location, Reduction of Certain Yard Requirements and Modification to the Limitations on the Keeping of Animals. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below, if it is determined that the requirement is clearly not necessary for the review of the application.

- **Amend Part 9, Group 9 Uses Requiring Special Regulation, as follows:**
 - **Amend Sect. 8-901, Group 9 Special Permit Uses, by deleting Par. 15 and adding a new Par. 21 to read as follows:**
 15. (Deleted by Amendment ZO-06-382, Adopted July 10, 2006, Effective July 11, 2006)
 21. Reduction of certain yard requirements.
 - **Delete Sect. 8-916 in its entirety.**
 - **Add a new Sect. 8-922, Provisions for Reduction of Certain Yard Requirements, to read as follows:**

8-922 Provisions for Reduction of Certain Yard Requirements

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
 - A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.
 - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
 - C. Accessory structure location requirements set forth in Sect. 10-104.
 - D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal

structure is to be removed, no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed.

5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.
10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.
11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a

designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

- A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
- B. Total area of the property and of each zoning district in square feet or acres.
- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
- D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.
- E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed structures to lot lines.
- F. Means of ingress and egress to the property from a public street(s).
- G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
- H. If applicable, the location of a well and/or septic field.
- I. Existing and proposed gross floor area and floor area ratio.
- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. The location, type and height of any existing and proposed landscaping and screening.
- L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological

Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structures, Sect. 10-103, Use Limitations, by revising Par. 4 to read as follows:

4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by Sect. 2-506. For the purposes of determining height, unless otherwise specified in Sect. 10-104 below, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by revising the Group 9 and special permit and special exception amendment entries in Par. 1 and by revising Par. 2 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:
Group 9 special permit

Open air produce stand	\$ 585
Accessory dwelling unit	\$ 140
Modification to minimum yard requirements for R-C lots	\$ 60
Modification to the limitations on the keeping of animals; error in building location; reduction of certain yard requirements on a single family dwelling lot; modification of minimum yard requirements for certain existing structures and uses; noise barriers on a single residential lot	\$ 295
Reduction of certain yard requirements on all other uses	\$ 2645
All other uses	\$ 5295
Amendment to a previously approved and currently valid special permit or special exception for a reduction of certain yard requirements on a single family dwelling lot	\$ 295
Amendment to a previously approved and currently valid special permit or special exception for a reduction of certain yard requirements on all other uses	\$ 2645
All other amendments to a previously approved and currently valid special permit or special exception	
With no new construction	½ prevailing fee
With new construction	Prevailing fee for new application

2. Application for an amendment to the Zoning Map:

District Requested	Filing Fee
All R Districts	\$8820 plus \$185 per acre
All C, I and Overlay Districts	\$8820 plus \$295 per acre
PRC District	\$8820 plus \$295 per acre
PDH, PDC and PRM District	
Application with conceptual development plan	\$8820 plus \$295 per acre
Application with concurrent filing of conceptual and final development plans	\$8820 plus \$435 per acre

Final development plan	\$4410 plus \$140 per acre
Amendment to a pending application for an amendment to the Zoning Map	\$1470 plus applicable per acre fee for acreage affected by the amendment
Amendment to a pending application for a final development plan or development plan amendment	\$1335
Amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan or concurrent conceptual/final development plan for a reduction of certain yard requirements on a single family dwelling lot	\$295
Amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan or concurrent conceptual/final development plan for a reduction of certain yard requirements on all other uses	\$2645
All other amendments to a previously approved development plan, proffered condition, conceptual development plan, final development plan or concurrent conceptual/final development plan	
With new construction	\$4410 plus applicable per acre fee for acreage affected by the amendment
With no new construction	\$4410

Note: For purpose of computing acreage fees, any portion of an acre shall be counted as an acre.

The fee for an amendment to a pending application is only applicable when the amendment request results in a change in land area, change in use or other substantial revision.

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by revising the definition of Grade to read as follows:

GRADE: A reference plane representing the average of finished ground level adjoining a building at all exterior walls. For the purposes of this Ordinance, the determination of grade associated with the height of an accessory structure shall be deemed the lowest point of finished ground level adjacent to the structure.

This amendment shall become effective on July 11, 2006 at 12:01 a.m.

GIVEN under my hand this 10th day of July, 2006.

NANCY VEHR
Clerk to the Board of Supervisors